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In re Application of
Richard A. Booth
Application No. 09/819,033
Deposited: 31 August, 2000
For: Control Methodology for
Inertial Energy Storage Devices

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:
: OFFICE OF PETITIONS
: A/C PATENTS
: DECISION DISMISSING
: PETITION
:

This is a decision on the petition filed on 16 January, 2001, requesting that the Continued Prosecution Application (CPA) filed on 31 August, 2000, and based on prior application No. 09/235,192 (issued as U.S. Patent No. 6,120,411 on 19 September, 2000) be treated as a continuation application under 37 CFR 1.53(b), rather than 37 CFR 1.53(d), and be accorded a filing date of 31 August, 2000.

The petition is **DISMISSED**.

A review of the file of prior application No. 09/235,192 reveals that a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) based on prior application No. 09/235,192 was filed in the above-identified patent application on 31 August, 2000. The prior application, however, issued as U.S. Patent No. 6,120,411 on 19 September, 2000, as a result of applicant's payment of the issue fee on 26 June, 2000. Since the prior application has issued as a patent, the original application papers present in the file of Application No. 09/235,192 are no longer available for processing under 37 CFR 1.53(d).

In view of the decision and improper CPA request, the CPA request and other papers filed on 31 August, 2000, have been removed from the file of application No. 09/235,192 and have been assigned application No. 09/819,033 for identification purposes. The present petition has also been placed in the file of Application No. 09/819,033. All further correspondence concerning the application deposited on 31 August, 2000, should be directed to Application No. 09/819,033, not Application No. 09/235,192.

The present petition requests that the CPA request be treated as an application under 37 CFR 1.53(b). A petition to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must include: (1) the \$130.00 petition fee, and (2) a copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR 1.53(d). The petition filed on 16 January, 2001, is not accompanied by a copy of the prior complete application as originally filed, including the specification, drawings and signed oath/declaration.

Accordingly, the petition is dismissed.

However, this decision is made without prejudice to reconsideration upon the filing of a request therefor accompanied by a copy of the prior application as originally filed.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely.¹

Further correspondence with respect to this matter should be addressed as follows:

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Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.



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for Patent Examination Policy

¹See 37 CFR 1.181(f).